

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TRACBEAM L.L.C.,

Plaintiff,

vs.

AT&T INC. ET AL.,

Defendants.

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CASE NO. 6:11-CV-96

ORDER

Before the Court are the following motions:

- Defendants AT&T Inc. and AT&T Mobility L.L.C.’s (“AT&T”) Motion for Summary Judgment of Invalidity¹ (Docket No. 444);
- AT&T’s Motion for Partial Summary Judgment of Non-Infringement (Docket No. 445);
- AT&T’s Motion for Summary Judgment of No Willful Infringement (Docket No. 448); and
- Plaintiff TracBeam L.L.C.’s (“TracBeam”) Motion for Leave to Rely Upon Supplemental Expert Reports (Docket No. 452).

On October 18, 2013, the Court heard oral arguments regarding these motions. Based on the parties’ briefings and arguments, the Court **DENIES** AT&T’s Motion for Summary Judgment of Invalidity and **DENIES** TracBeam’s Cross-Motion for Summary Judgment of Invalidity, with opinion to follow. The Court **DENIES** AT&T’s for Motion for Partial Summary

¹ In its response brief, Plaintiff TracBeam L.L.C. requested that the Court grant summary judgment in its favor and hold that the original application fully discloses and supports asserted claims 25 and 162 of U.S. Patent No. 7,764,231. Accordingly, the Court construes this as a cross-motion for summary judgment.

Judgment of Non-Infringement, with opinion to follow. The Court **GRANTS** AT&T's Motion for Summary Judgment of No Willful Infringement, with opinion to follow. Additionally, the Court **GRANTS** TracBeam's Motion for Leave to Rely Upon Supplemental Expert Reports, with opinion to follow.

Under the current schedule, the parties are advised the Court may proceed immediately into trial following jury selection on **November 4, 2013**. At the hearing, AT&T questioned the feasibility of a November trial date if the Court granted TracBeam's Motion for Leave to Rely Upon Supplemental Expert Reports. In light of the Court's rulings, if AT&T wishes to file a motion for continuance, it must do so by **Monday, October 21, 2013 at 5:00 p.m.** If AT&T files a motion to continue, TracBeam **SHALL** file a response by **Wednesday, October 23, 2013 at 12:00 p.m.** The Court will hear arguments for this motion at the pretrial conference, which remains set for **Thursday, October 24, at 9:00 a.m.**

So ORDERED and SIGNED this 18th day of October, 2013.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE